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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,107	03/16/2001	Tohru Yoshida	1317.1071/MDS/HEW	8941

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EXAMINER

DINH, TAN X

ART UNIT PAPER NUMBER

2653

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,107

Applicant(s)

YOSHIDA, TOHRU

Examiner

TAN X. DINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 24 and 25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9 and 22 is/are allowed.
- 6) ☒ Claim(s) 1 and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1) The amendment filed 9/07/2005 is acknowledged. New claims 24 and 25 have been added.

2) Newly submitted claims 24 and 25 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 24 and 25 require that the linear velocity detector must using wobble signal which is different in scope with original invention of claims 1-20 and 22.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 24 and 25 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3) The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the linear velocity detector that detects a linear velocity using a velocity of a spot of light must be shown or the feature(s) canceled from the claim(s). No new matter should be entered

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." . If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4) Claims 1-20 and 22 are rejected under 35 U.S.C. 112, 1st paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to specify " a linear velocity detector that detects a linear velocity using a velocity of a spot of the light " as claimed in claims 1,2,10,11,15,20 and 22. in the SUMMARY OF THE INVENTION section , the specification states that " An exemplary linear velocity detector includes a disc clock detector that detects a pre-recorded disc clock of which frequency, along the tracks formed on the surface of the optical disc, per a unit length of the tracks is constant in any position and outputs a disc clock signal having a frequency corresponding to the linear velocity. Another exemplary linear velocity detector includes a square root calculator calculating a square root of the voltage converted from the frequency to voltage converter, where the optical power controller controls the optical power of the light to record the information on the surface of the optical disc based on the square root calculated by the square root calculator. " The feature of " a linear velocity detector that detects a linear velocity using a velocity of a spot of the light " as claimed can not be found in the specification.

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5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

6) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8) Claim 1,10,11,14,15 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by SHIMODA et al (6,442,115).

SHIMODA et al disclose a device that records information using a light on an optical disc as claimed in claims 1,10 and 20, which is rotated at a constant speed by controlling a number of rotations per unit time used to record the information, the device comprising:

a linear velocity detector that detects a linear velocity using a velocity of a spot of the light, which records the information on a surface of the optical disc, in a tangential

direction of a circumference of the optical disc (column 2, lines 27-34); and

an optical power controller that controls an optical power of the light that records the information to the optical disc based on the linear velocity detected by the linear velocity detector (column 2, lines 34-45. See also column 2, lines 53-65).

Claims 11 and 15 adds to claim 1 the feature of detecting linear velocity using information track and outputting a frequency (which is shown in SHIMODA et al's column 6, line 51 to column 7, line 2) and converting the frequency into voltage related to the frequency (figure 2, frequency 24 detects and output frequency to CPU 11 and CPU 11 converts the frequency to voltage to control the power controller 16 for controlling the power of the laser 14a from optical pick-up 14).

Method claim 14 drawn to the method of using the corresponding apparatus claimed in claims 1,10 and 20. Therefore, method claims are rejected for the same reasons of anticipation (obviousness) as used above.

9) Claims 1,10,14 and 20 are further rejected under 35 U.S.C. 102(b) as being anticipated by YOSHIHIRO (JP, 08-063,750).

YOSHIHIRO disclose a device that records information using a light on an optical disc as claimed in claims 1,10 and 20, which is

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rotated at a constant speed by controlling a number of rotations per unit time used to record the information, the device comprising:

a linear velocity detector that detects a linear velocity using a velocity of a spot of the light, which records the information on a surface of the optical disc, in a tangential direction of a circumference of the optical disc (See the PURPOSE in Abstract); and

an optical power controller that controls an optical power of the light that records the information to the optical disc based on the linear velocity detected by the linear velocity detector (See the PURPOSE in Abstract).

Method claim 14 drawn to the method of using the corresponding apparatus claimed in claims 1,10 and 20. Therefore, method claims are rejected for the same reasons of anticipation (obviousness) as used above.

10) Claims 12,13,16-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11) Claims 2-9 and 22 are allowed.

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12) Applicant's arguments with respect to claims 1-20,22, 24 and 25 have been considered but are moot in view of the new ground(s) of rejection.

13) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See form PTO-892 attached herein).

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

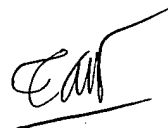
14) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY-FRIDAY from 8:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more

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information about the PAIR system, see <http://pair-direct.uspto.gov/>.
Should you have questions on access to the Private PAIR system,
contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER

November 3, 2005